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In re Application of
ROUX
Application No.: 09/869,302
PCT No.: PCT/FR00/00101
Int. Filing Date: 19 January 2000
Priority Date: 19 January 1999
Attorney Docket No.: 130815.90034
For: SYSTEM FOR NEUTRALISING
POLLUTANT GASES BY PYROLISIS

DECISION

This is a decision on applicant's communication which is being treated as a Request for Refund filed 01 July 2002.

BACKGROUND

On 19 July 2001, applicant filed a transmittal letter for entry into the national stage in the United States of America. Filed with the transmittal letter were, inter alia: the requisite \$860 basic national fee; a purported translation of the international application; four drawing sheets; and the surcharge of \$130 for furnishing an oath or declaration later than 30 months from the priority claim.

On 31 August 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 19 October 2001, applicant filed a declaration and a preliminary amendment.

On 16 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 05 December 2001.

On 01 July 2002, applicant filed the present request for refund.

DISCUSSION

A review of the application file and other Patent and Trademark Office records reveal applicant has not submitted an English translation of the international application as filed pursuant to 35 U.S.C. 371(c)(2). The English translation located in the application folder includes the English translation of the description of the international application and the amendments made to the claims under Article 34. Therefore, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed on 16 April 2002. The 16 April 2002 Notification of Acceptance of Application was erroneously mailed by the DO/EO/US and must be vacated.

Applicant's are requesting a refund of \$130 charged to Deposit Account no. 15-0030 on 11 April 2002. Applicant is correct in its assertion that the \$130 processing fee was charged to the Deposit Account in error, however, the request for refund is dismissed since the processing fee must be submitted with the English translation of the international application pursuant to 37 CFR 1.492(f).

CONCLUSION

The request for refund is DISMISSED without prejudice.

Accordingly, the 16 April 2002 Notification of Acceptance of Application is hereby VACATED.

Applicant is given **TWO (2) MONTHS** from the mail date of this Decision to submit a proper translation of the international application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.



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